

HOUSE BILL No. 1314

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-4-6.1; IC 6-1.1; IC 6-3-1-3.5; IC 6-3-2.

Synopsis: Agricultural enterprise zones. Permits the enterprise zone board to designate certain areas as agricultural enterprise zones. Provides exemptions from property taxes and the adjusted gross income tax for agricultural processing facilities located in the zones. Provides that real and personal property located in an agricultural enterprise zone may be assessed for payment of property taxes committed to funding or paying bonded indebtedness or certain lease rentals.

Effective: July 1, 2004.

Buck, Friend, Lehe

January 15, 2004, read first time and referred to Committee on Ways and Means.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1314

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-4-6.1-1.1, AS AMENDED BY P.L.192-2002(ss),
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 1.1. **(a)** As used in this chapter, "zone business"
4 means any entity that accesses at least one (1) tax credit or exemption
5 incentive available under this chapter, IC 6-1.1-20.8, or IC 6-3-3-10.

6 **(b) The term does not include a business located in an**
7 **agricultural enterprise zone that receives an exemption incentive**
8 **under IC 6-1.1-10-44 or IC 6-3-2-20.**

9 SECTION 2. IC 4-4-6.1-1.5 IS ADDED TO THE INDIANA CODE
10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
11 1, 2004]: Sec. 1.5. As used in this chapter, "development plan"
12 means a written plan that addresses the criteria set forth in section
13 3.5 of this chapter and includes all the following:

14 **(1) A map of the proposed agricultural enterprise zone that**
15 **indicates the geographic boundaries, the total area, and the**
16 **present use and conditions generally of the land and**
17 **structures within those boundaries.**



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(2) Evidence of community support and commitment from residential and business interests within the community.

(3) A description of the methods proposed to increase economic opportunity and expansion, facilitate infrastructure improvement, and identify job training opportunities.

(4) A description of current social, economic, and demographic characteristics of the proposed agricultural enterprise zone and improvements in education, health, human services, public safety, and employment that are anticipated if the agricultural enterprise zone is created.

(5) Any other information required by the board.

SECTION 3. IC 4-4-6.1-1.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1.6. As used in this chapter, "agricultural processing facility" means:**

(1) the land on which a building or complex of buildings described in subdivision (2) is situated; and

(2) a building or complex of buildings that is used, or that is designed and constructed to be used, to:

(A) transform agricultural products into goods that are used for intermediate or final consumption, including goods for nonfood use;

(B) package agricultural products;

(C) sort agricultural products; or

(D) grade agricultural products.

SECTION 4. IC 4-4-6.1-2, AS AMENDED BY P.L.90-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2. (a)** The board has the following powers, in addition to other powers that are contained in this chapter:

(1) To review and approve or reject all applicants for enterprise zone designation, according to the criteria for designation which this chapter provides.

(2) To waive or modify rules as provided in this chapter.

(3) To provide a procedure by which enterprise zones may be monitored and evaluated on an annual basis.

(4) To adopt rules for the disqualification of a zone business from eligibility for any or all incentives available to zone businesses, if that zone business does not do one (1) of the following:

(A) If all of its incentives, as contained in the summary required under section 2.5 of this chapter, exceed one thousand dollars (\$1,000) in any year, pay a registration fee to the board in an amount equal to one percent (1%) of all of its

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- 1 incentives.
- 2 (B) Use all of its incentives, except for the amount of
- 3 registration fee, for its property or employees in the zone.
- 4 (C) Remain open and operating as a zone business for twelve
- 5 (12) months of the assessment year for which the incentive is
- 6 claimed.
- 7 (5) To disqualify a zone business from eligibility for any or all
- 8 incentives available to zone businesses in accordance with the
- 9 procedures set forth in the board's rules.
- 10 (6) After a recommendation from an urban enterprise association,
- 11 to modify an enterprise zone boundary if the board determines
- 12 that the modification:
- 13 (A) is in the best interests of the zone; and
- 14 (B) meets the threshold criteria and factors set forth in section
- 15 3 of this chapter.
- 16 (7) To employ staff and contract for services.
- 17 (8) To receive funds from any source and expend these funds for
- 18 the administration and promotion of the enterprise zone program.
- 19 (9) To make determinations under IC 6-3.1-11 concerning the
- 20 designation of locations as industrial recovery sites and the
- 21 availability of the credit provided by IC 6-1.1-20.7 to persons
- 22 owning inventory located on an industrial recovery site.
- 23 (10) To make determinations under IC 6-1.1-20.7 and IC 6-3.1-11
- 24 concerning the disqualification of persons from claiming credits
- 25 provided by those chapters in appropriate cases.
- 26 (11) To make determinations under IC 6-3.1-11.5 concerning the
- 27 designation of locations as military base recovery sites and the
- 28 availability of the credit provided by IC 6-3.1-11.5 to persons
- 29 making qualified investments in military base recovery sites.
- 30 (12) To make determinations under IC 6-3.1-11.5 concerning the
- 31 disqualification of persons from claiming the credit provided by
- 32 IC 6-3.1-11.5 in appropriate cases.
- 33 **(13) To do the following concerning agricultural enterprise**
- 34 **zones:**
- 35 **(A) Review and approve or reject all applications for**
- 36 **agricultural enterprise zone designation, according to the**
- 37 **criteria for designation set forth in this chapter.**
- 38 **(B) Approve or reject the geographic boundaries and the**
- 39 **total area of a proposed agricultural enterprise zone as**
- 40 **submitted in the application.**
- 41 (b) In addition to a registration fee paid under subsection (a)(4),
- 42 each zone business that receives a credit under this chapter shall assist

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the zone urban enterprise association created under section 4 of this chapter in an amount determined by the legislative body of the municipality in which the zone is located. If a zone business does not assist an urban enterprise association, the legislative body of the municipality in which the zone is located may pass an ordinance disqualifying a zone business from eligibility for all credits or incentives available to zone businesses. If a legislative body disqualifies a zone business under this subsection, the legislative body shall notify the board, the department of local government finance, and the department of state revenue in writing within thirty (30) days of the passage of the ordinance disqualifying the zone business. Disqualification of a zone business under this section is effective beginning with the taxable year in which the ordinance disqualifying the zone business is passed.

SECTION 5. IC 4-4-6.1-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 3.5. (a) The board may designate up to ten (10) agricultural enterprise zones. There may not be more than one (1) agricultural enterprise zone in a municipality. An agricultural enterprise zone must have a continuous boundary.**

(b) After approval by resolution of the legislative body, the executive of a municipality that is not an included town under IC 36-3-1-7 may submit an application to the enterprise zone board to have an agricultural enterprise zone designated within the municipality. If an application is denied, the executive may submit a new application. The board shall provide application procedures by rule.

(c) The board shall evaluate an agricultural enterprise zone application if the board finds that the proposed zone meets the following threshold criteria:

(1) At least twenty-five percent (25%) of the households in the zone are below the poverty level, as established by the most recent United States census, or the average rate of unemployment in the zone for the most recent eighteen (18) month period for which data is available is at least one and one-half (1 1/2) times the average statewide rate of unemployment for the same eighteen (18) month period.

(2) The territory of the proposed zone is entirely within the applicant municipality and is suitable for the development of at least one (1) agricultural processing facility.

(3) An urban enterprise association that meets the requirements of section 4 of this chapter has been appointed.

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(d) If an applicant meets the threshold criteria set forth in subsection (c), the board shall evaluate the application, arrive at a decision, and either designate a zone or reject the application based on the following factors:

(1) The level of poverty, unemployment, and general distress of the area in comparison with other applicant and nonapplicant municipalities, and the expression of need for an agricultural enterprise zone above the threshold criteria set forth in subsection (c).

(2) Evidence of support for designation by residents, businesses, and private organizations in the proposed zone and the demonstration of a willingness among zone constituents to participate in zone area revitalization.

(3) Efforts by the applicant municipality to reduce the impediments to development in the zone area where necessary, including the following:

(A) A procedure for streamlining local government regulations and permit procedures.

(B) Crime prevention activities involving zone residents.

(C) A plan for infrastructure improvements capable of supporting increased development activity.

(4) Significant efforts to encourage the reuse of existing zone structures in new development activities to preserve the existing character of the neighborhood, where appropriate.

(5) The proposed managerial structure of the zone and the capacity of the urban enterprise association to carry out the goals and purposes of this chapter.

(e) An agricultural enterprise zone expires fifteen (15) years after the date it is designated by the board.

(f) The board may not approve the enlargement of an agricultural enterprise zone's geographic boundaries unless the area to be enlarged meets the criteria of economic distress set forth in subsection (c)(1).

(g) The board may not do the following:

(1) Consider an application for agricultural enterprise zone designation that is submitted after September 30, 2005.

(2) Designate an agricultural enterprise zone before January 1, 2005, or after December 31, 2005.

SECTION 6. IC 4-4-6.1-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.5. (a) A business that substantially reduces or ceases an operation located in Indiana and outside an agricultural

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enterprise zone (referred to as a nonzone operation) in order to relocate in an agricultural enterprise zone is disqualified from benefits or incentives available to agricultural enterprise zone businesses. Determinations under this section shall be made by a hearing panel composed of the chair of the board or the chair's designee, the commissioner of the department of state revenue or the commissioner's designee, and the commissioner of the department of local government finance or the commissioner's designee. The panel, following an evidentiary hearing held after the relocation of the business, shall submit a recommended order to the board for its adoption. The recommended order must be based on the following criteria and subsection (b):

(1) A site specific economic activity, including sales, leasing, service, manufacturing, production, storage of inventory, or any activity involving permanent full-time employees or part-time employees shall be considered a business operation.

(2) With respect to a nonzone operation, any of the following that occurs during the twelve (12) months before the completion of the physical relocation of all or part of the activity described in subdivision (1) from the nonzone operation to the zone, as compared with the twelve (12) months before that twelve (12) months, shall be considered a substantial reduction for purposes of the subsection:

(A) A reduction in the average number of full-time employees or part-time employees by the lesser of one hundred (100) employees or twenty-five percent (25%) of all employees.

(B) A twenty-five percent (25%) reduction in the average number of goods manufactured or produced.

(C) A twenty-five percent (25%) reduction in the average value of services provided.

(D) A ten percent (10%) reduction in the average value of stored inventory.

(E) A twenty-five percent (25%) reduction in the average amount of gross income.

(b) Notwithstanding subsection (a), a business that would otherwise be disqualified under subsection (a) is eligible for benefits and incentives available to agricultural enterprise zone businesses if each of the following conditions is met:

(1) The business relocates its nonzone operation for any of the following reasons:

(A) The lease on property necessary for the nonzone

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operation has been involuntarily lost through no fault of the business.

(B) The space available at the location of the nonzone operation cannot accommodate planned expansion needed by the business.

(C) The building for the nonzone operation has been certified as uninhabitable by a state or local building authority.

(D) The building for the nonzone operation has been totally destroyed through no fault of the business.

(E) The renovation and construction costs at the location of the nonzone operation are more than one and one-half (1 1/2) times the costs of purchase, renovation, or construction of a facility in the zone as certified by three (3) independent estimates.

A business is eligible for benefits and incentives under clause (C) or (D) only if renovation and construction costs at the location of the nonzone operation are more than one and one-half (1 1/2) times the cost of purchase, renovation, or construction of a facility in the zone. These costs must be certified by three (3) independent estimates.

(2) The business has not terminated or reduced the pension or health insurance obligations payable to employees or former employees of the nonzone operation without the consent of the employees.

(c) The hearing panel shall deliver to the business and to any person who testified before the panel in favor of disqualification of the business a copy of the panel's recommended order. The business and those persons are parties for purposes of this section.

(d) A party who wishes to oppose the board's adoption of the recommended order of the hearing panel shall, not later than ten (10) days after the party's receipt of the recommended order, file written objections with the board. The board shall set the objections for oral argument and give notice to the parties. A party, at its own expense, may cause to be filed with the board a transcript of the oral testimony or any other part of the record of the proceedings. The oral argument must be on the record filed with the board. The board may hear additional evidence or remand the action to the hearing panel with instructions appropriate to the expeditious and proper disposition of the action. The board may adopt the recommendations of the hearing panel, amend or modify the recommendations, or make an order or

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determination as is proper on the record.

(e) If no objections are filed, the board may adopt the recommended order without oral argument. If the board does not adopt the proposed findings of fact and recommended order, the parties shall be notified and the action shall be set for oral argument as provided in subsection (d).

(f) The final determination made by the board shall be made by a majority of the quorum needed for board meetings.

SECTION 7. IC 4-4-6.1-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) The board shall prescribe:

(1) the form of the application for an agricultural enterprise zone designation; and

(2) the form required to collect information from an agricultural enterprise zone business under subsection (b).

(b) Before April 1, an agricultural enterprise zone business shall annually report the following to the board:

(1) The number of employees who are employed in Indiana by the business.

(2) The compensation (including benefits) paid to the employees of the business in Indiana.

(3) The number of employees who are employed in an agricultural enterprise zone by the business.

(4) The number of employees who were employed by the business in the territory of the agricultural enterprise zone before the designation of the agricultural enterprise zone.

(5) The number of employees who were added by the business following the designation of the agricultural enterprise zone.

(6) The compensation (including benefits) paid to the employees described in subdivision (4).

(7) The compensation (including benefits) paid to the employees described in subdivision (5).

(8) The total Indiana income of the business.

(9) The income of the business derived from sources inside an agricultural enterprise zone.

(10) The amount of the:

(A) facility improvements;

(B) equipment and machinery upgrades, repairs, or retrofits; or

(C) other direct business related investments, including training;

made by the business in an agricultural enterprise zone in the

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preceding calendar year.

(11) The total amount of the:

(A) facility improvements;

(B) equipment and machinery upgrades, repairs, or retrofits; or

(C) other direct business related investments, including training;

made by the business in an agricultural enterprise zone since the date of the agricultural enterprise zone designation.

An agricultural enterprise zone business shall submit to the board income tax returns, assessment records, personal property tax returns, and any other supporting documentation requested by the board. The board shall report the failure of an agricultural enterprise zone business to comply with this section to the department of state revenue.

(c) The board shall contract with a state university to prepare an annual report to the legislative council on the economic effects of this chapter in each agricultural enterprise zone. The report must be in electronic format under IC 5-14-6 and must include the following information:

(1) The number of new jobs created.

(2) The percentage change in assessed value.

(3) The average wage of new jobs created.

SECTION 8. IC 6-1.1-10-44 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 44. (a) Except as provided in this section, the following are exempt from property taxation under this article if the taxpayer qualifies under subsection (b):

(1) An agricultural processing facility (as defined in IC 4-4-6.1-1.6) that is located inside an agricultural enterprise zone.

(2) The business personal property (as defined in IC 6-1.1-21-2) of an agricultural processing facility described in subdivision (1).

(b) To receive an exemption under subsection (a), a taxpayer must do either of the following:

(1) Invest at least five hundred thousand dollars (\$500,000) in the taxpayer's agricultural processing facility and create at least five (5) new jobs, in the case of an agricultural processing facility that relocates inside an agricultural enterprise zone.

(2) Increase the number of full-time employees working at the

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taxpayer's agricultural processing facility by at least ten percent (10%) after the date of the agricultural enterprise zone designation, in the case of an agricultural processing facility located inside an agricultural enterprise zone as of the date of the zone's designation.

(c) A taxpayer is not eligible for an exemption under this section if the taxpayer is delinquent in the payment of an ad valorem property tax assessed and imposed under this article.

(d) Notwithstanding subsection (a), the real property and the personal property of an agricultural processing facility located in an agricultural enterprise zone shall be assessed for the payment of ad valorem property tax levies committed to pay or fund either:

- (1) bonded indebtedness; or
- (2) lease rentals under a lease with an original term of at least five (5) years.

(e) A taxpayer is eligible for an exemption under this section until the department of local government finance, with the assistance of the department of state revenue, determines that the total state and local tax revenue foregone as a result of all exemptions and deductions granted to the taxpayer under the agricultural enterprise zone program reaches ten million dollars (\$10,000,000).

(f) During the last three (3) years that the taxpayer is eligible for an exemption under this section, the exemption shall be reduced by the following percentages:

- (1) Twenty-five percent (25%) for the year that is two (2) years before the final year of designation as an agricultural enterprise zone.
- (2) Fifty percent (50%) for the year that immediately precedes the final year of designation as an agricultural enterprise zone.
- (3) Seventy-five percent (75%) for the final year of designation as an agricultural enterprise zone.

(g) An agricultural processing facility located inside an agricultural enterprise zone that receives a property tax exemption under this section may not receive a tax incentive or benefit provided to an enterprise zone business under the following statutes:

- (1) IC 6-1.1-20.8.
- (2) IC 6-3-3-10.
- (3) IC 6-3.1-7.
- (4) IC 6-3.1-9.

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1 **(5) IC 6-3.1-10.**

2 **(h) An exemption allowed under this section expires when the**
 3 **designation of the agricultural enterprise zone expires.**

4 SECTION 9. IC 6-1.1-11-3, AS AMENDED BY P.L.264-2003,
 5 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2004]: Sec. 3. (a) Subject to subsections (e) and (f), an owner
 7 of tangible property who wishes to obtain an exemption from property
 8 taxation shall file a certified application in duplicate with the county
 9 assessor of the county in which the property that is the subject of the
 10 exemption is located. The application must be filed annually on or
 11 before May 15 on forms prescribed by the department of local
 12 government finance. Except as provided in sections 1, 3.5, ~~and 4~~, **and**
 13 **4.5** of this chapter, the application applies only for the taxes imposed
 14 for the year for which the application is filed.

15 (b) The authority for signing an exemption application may not be
 16 delegated by the owner of the property to any other person except by
 17 an executed power of attorney.

18 (c) An exemption application which is required under this chapter
 19 shall contain the following information:

20 (1) A description of the property claimed to be exempt in
 21 sufficient detail to afford identification.

22 (2) A statement showing the ownership, possession, and use of
 23 the property.

24 (3) The grounds for claiming the exemption.

25 (4) The full name and address of the applicant.

26 (5) For the year that ends on the assessment date of the property,
 27 identification of:

28 (A) each part of the property used or occupied; and

29 (B) each part of the property not used or occupied;

30 for one (1) or more exempt purposes under IC 6-1.1-10 during the
 31 time the property is used or occupied.

32 (6) Any additional information which the department of local
 33 government finance may require.

34 (d) A person who signs an exemption application shall attest in
 35 writing and under penalties of perjury that, to the best of the person's
 36 knowledge and belief, a predominant part of the property claimed to be
 37 exempt is not being used or occupied in connection with a trade or
 38 business that is not substantially related to the exercise or performance
 39 of the organization's exempt purpose.

40 (e) An owner must file with an application for exemption of real
 41 property under subsection (a) or section 5 of this chapter a copy of the
 42 township assessor's record kept under IC 6-1.1-4-25(a) that shows the

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calculation of the assessed value of the real property for the assessment date for which the exemption is claimed. Upon receipt of the exemption application, the county assessor shall examine that record and determine if the real property for which the exemption is claimed is properly assessed. If the county assessor determines that the real property is not properly assessed, the county assessor shall direct the township assessor of the township in which the real property is located to:

- (1) properly assess the real property; and
- (2) notify the county assessor and county auditor of the proper assessment.

(f) If the county assessor determines that the applicant has not filed with an application for exemption a copy of the record referred to in subsection (e), the county assessor shall notify the applicant in writing of that requirement. The applicant then has thirty (30) days after the date of the notice to comply with that requirement. The county property tax assessment board of appeals shall deny an application described in this subsection if the applicant does not comply with that requirement within the time permitted under this subsection.

SECTION 10. IC 6-1.1-11-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 4.5. (a) An owner of an agricultural processing facility located inside an agricultural enterprise zone who wishes to obtain the exemption provided under IC 6-1.1-10-44 must file a certified application in duplicate with the county assessor of the county in which the property is located. The application must be filed before February 16 on forms prescribed by the department of local government finance.**

(b) The authority for signing an exemption application may not be delegated by the owner of the property to any other person except by an executed power of attorney.

(c) An exemption application required under this section must contain the following information:

- (1) A description of the property claimed as exempt, in sufficient detail to enable identification.**
- (2) A statement showing the ownership of the property.**
- (3) The grounds for claiming the exemption.**
- (4) The full name and address of the applicant.**
- (5) Any additional information the department of local government finance requires.**

(d) The owner of an agricultural processing facility located inside an agricultural enterprise zone is not required to file an

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1 additional application if the owner remains eligible for an
2 agricultural enterprise zone tax exemption under IC 6-1.1-10-44.

3 (e) The department of local government finance may adopt rules
4 necessary to implement this section.

5 SECTION 11. IC 6-3-1-3.5, AS AMENDED BY P.L.1-2004,
6 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2004]: Sec. 3.5. When used in this article, the term "adjusted
8 gross income" shall mean the following:

9 (a) In the case of all individuals, "adjusted gross income" (as
10 defined in Section 62 of the Internal Revenue Code), modified as
11 follows:

12 (1) Subtract income that is exempt from taxation under this article
13 by the Constitution and statutes of the United States.

14 (2) Add an amount equal to any deduction or deductions allowed
15 or allowable pursuant to Section 62 of the Internal Revenue Code
16 for taxes based on or measured by income and levied at the state
17 level by any state of the United States.

18 (3) Subtract one thousand dollars (\$1,000), or in the case of a
19 joint return filed by a husband and wife, subtract for each spouse
20 one thousand dollars (\$1,000).

21 (4) Subtract one thousand dollars (\$1,000) for:

22 (A) each of the exemptions provided by Section 151(c) of the
23 Internal Revenue Code;

24 (B) each additional amount allowable under Section 63(f) of
25 the Internal Revenue Code; and

26 (C) the spouse of the taxpayer if a separate return is made by
27 the taxpayer and if the spouse, for the calendar year in which
28 the taxable year of the taxpayer begins, has no gross income
29 and is not the dependent of another taxpayer.

30 (5) Subtract:

31 (A) one thousand five hundred dollars (\$1,500) for each of the
32 exemptions allowed under Section 151(c)(1)(B) of the Internal
33 Revenue Code for taxable years beginning after December 31,
34 1996; and

35 (B) five hundred dollars (\$500) for each additional amount
36 allowable under Section 63(f)(1) of the Internal Revenue Code
37 if the adjusted gross income of the taxpayer, or the taxpayer
38 and the taxpayer's spouse in the case of a joint return, is less
39 than forty thousand dollars (\$40,000).

40 This amount is in addition to the amount subtracted under
41 subdivision (4).

42 (6) Subtract an amount equal to the lesser of:

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- 1 (A) that part of the individual's adjusted gross income (as
- 2 defined in Section 62 of the Internal Revenue Code) for that
- 3 taxable year that is subject to a tax that is imposed by a
- 4 political subdivision of another state and that is imposed on or
- 5 measured by income; or
- 6 (B) two thousand dollars (\$2,000).
- 7 (7) Add an amount equal to the total capital gain portion of a
- 8 lump sum distribution (as defined in Section 402(e)(4)(D) of the
- 9 Internal Revenue Code) if the lump sum distribution is received
- 10 by the individual during the taxable year and if the capital gain
- 11 portion of the distribution is taxed in the manner provided in
- 12 Section 402 of the Internal Revenue Code.
- 13 (8) Subtract any amounts included in federal adjusted gross
- 14 income under Section 111 of the Internal Revenue Code as a
- 15 recovery of items previously deducted as an itemized deduction
- 16 from adjusted gross income.
- 17 (9) Subtract any amounts included in federal adjusted gross
- 18 income under the Internal Revenue Code which amounts were
- 19 received by the individual as supplemental railroad retirement
- 20 annuities under 45 U.S.C. 231 and which are not deductible under
- 21 subdivision (1).
- 22 (10) Add an amount equal to the deduction allowed under Section
- 23 221 of the Internal Revenue Code for married couples filing joint
- 24 returns if the taxable year began before January 1, 1987.
- 25 (11) Add an amount equal to the interest excluded from federal
- 26 gross income by the individual for the taxable year under Section
- 27 128 of the Internal Revenue Code if the taxable year began before
- 28 January 1, 1985.
- 29 (12) Subtract an amount equal to the amount of federal Social
- 30 Security and Railroad Retirement benefits included in a taxpayer's
- 31 federal gross income by Section 86 of the Internal Revenue Code.
- 32 (13) In the case of a nonresident taxpayer or a resident taxpayer
- 33 residing in Indiana for a period of less than the taxpayer's entire
- 34 taxable year, the total amount of the deductions allowed pursuant
- 35 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount
- 36 which bears the same ratio to the total as the taxpayer's income
- 37 taxable in Indiana bears to the taxpayer's total income.
- 38 (14) In the case of an individual who is a recipient of assistance
- 39 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,
- 40 subtract an amount equal to that portion of the individual's
- 41 adjusted gross income with respect to which the individual is not
- 42 allowed under federal law to retain an amount to pay state and

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1 local income taxes.

2 (15) In the case of an eligible individual, subtract the amount of
3 a Holocaust victim's settlement payment included in the
4 individual's federal adjusted gross income.

5 (16) For taxable years beginning after December 31, 1999,
6 subtract an amount equal to the portion of any premiums paid
7 during the taxable year by the taxpayer for a qualified long term
8 care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the
9 taxpayer's spouse, or both.

10 (17) Subtract an amount equal to the lesser of:

11 (A) for a taxable year:

12 (i) including any part of 2004, the amount determined under
13 subsection (f); and

14 (ii) beginning after December 31, 2004, two thousand five
15 hundred dollars (\$2,500); or

16 (B) the amount of property taxes that are paid during the
17 taxable year in Indiana by the individual on the individual's
18 principal place of residence.

19 (18) Subtract an amount equal to the amount of a September 11
20 terrorist attack settlement payment included in the individual's
21 federal adjusted gross income.

22 (19) Add or subtract the amount necessary to make the adjusted
23 gross income of any taxpayer that owns property for which bonus
24 depreciation was allowed in the current taxable year or in an
25 earlier taxable year equal to the amount of adjusted gross income
26 that would have been computed had an election not been made
27 under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to
28 apply bonus depreciation to the property in the year that it was
29 placed in service.

30 **(20) Subtract income that is:**

31 **(A) exempt from taxation under this article under**
32 **IC 6-3-2-20; and**

33 **(B) included in the individual's federal adjusted gross**
34 **income.**

35 (b) In the case of corporations, the same as "taxable income" (as
36 defined in Section 63 of the Internal Revenue Code) adjusted as
37 follows:

38 (1) Subtract income that is exempt from taxation under this article
39 by the Constitution and statutes of the United States.

40 (2) Add an amount equal to any deduction or deductions allowed
41 or allowable pursuant to Section 170 of the Internal Revenue
42 Code.

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(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Subtract income that is:

(A) exempt from taxation under this article under IC 6-3-2-20; and

(B) included in the corporation's taxable income under the Internal Revenue Code.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was

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placed in service.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

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(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP THREE amount and two thousand five hundred dollars (\$2,500).

SECTION 12. IC 6-3-2-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 20. (a) This section applies only to a taxpayer that operates an agricultural processing facility (as defined in IC 4-4-6.1-1.6) inside an agricultural enterprise zone.**

(b) Subject to section 22 of this chapter, income derived from sources inside an agricultural enterprise zone (as determined under section 21 of this chapter) is exempt from taxation under IC 6-3-1 through IC 6-3-7 if the taxpayer does either of the following:

(1) Invests at least five hundred thousand dollars (\$500,000) in the taxpayer's agricultural processing facility and creates at least five (5) new jobs, in the case of an agricultural processing facility that relocates inside an agricultural enterprise zone.

(2) Increases the number of full-time employees working at the taxpayer's agricultural processing facility by at least ten percent (10%) after the date of the agricultural enterprise zone designation, in the case of an agricultural processing facility located inside an agricultural enterprise zone as of the date of the zone's designation.

(c) An exemption allowed under this section expires when the designation of the agricultural enterprise zone expires.

(d) The department may adopt rules and prescribe forms

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1 necessary to implement this section.

2 SECTION 13. IC 6-3-2-21 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2004]: Sec. 21. (a) As used in this section, "agricultural
5 enterprise zone" means an agricultural enterprise zone created
6 under IC 4-4-6.1-3.5.

7 (b) As used in this section, "income derived from sources inside
8 an agricultural enterprise zone" means:

9 (1) income from real or tangible personal property located
10 inside an agricultural enterprise zone;

11 (2) income from doing business from an agricultural
12 processing facility located inside an agricultural enterprise
13 zone; or

14 (3) income from stocks, bonds, notes, bank deposits, patents,
15 copyrights, secret processes and formulas, goodwill,
16 trademarks, trade brands, franchises, and other intangible
17 personal property having a situs inside an agricultural
18 enterprise zone.

19 However, for nonbusiness income described in subsection (h), only
20 the income that is allocated to an agricultural enterprise zone
21 under subsections (i) through (l) is considered derived from sources
22 inside an agricultural enterprise zone. For business income, only
23 the income that is apportioned to an agricultural enterprise zone
24 under subsection (c) is considered derived from sources inside an
25 agricultural enterprise zone.

26 (c) If business income derived from sources inside an
27 agricultural enterprise zone cannot be separated from the business
28 income derived from sources outside the agricultural enterprise
29 zone, the business income derived from sources inside the
30 agricultural enterprise zone is determined by multiplying the
31 business income derived from sources both inside and outside the
32 agricultural enterprise zone by a fraction. The numerator of the
33 fraction is the property factor described in subsection (d), plus the
34 payroll factor described in subsection (e), plus the sales factor
35 described in subsection (f). The denominator of the fraction is three
36 (3).

37 (d) The property factor is a fraction. The numerator of the
38 fraction is the average value of the taxpayer's real property and
39 tangible personal property owned or rented and used in an
40 agricultural enterprise zone during the taxable year. The
41 denominator of the fraction is the average value of all the
42 taxpayer's real property and tangible personal property owned or

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rented and used during the taxable year. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The average value of property is determined by averaging the values at the beginning and end of the taxable year, but the department may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the taxpayer's property.

(e) The payroll factor is a fraction. The numerator of the fraction is the total amount paid in an agricultural enterprise zone during the taxable year by the taxpayer for compensation. The denominator of the fraction is the total compensation paid everywhere during the taxable year by the taxpayer. Compensation is paid in an agricultural enterprise zone if:

(1) the individual's service is performed entirely within the agricultural enterprise zone;

(2) the individual's service is performed both inside and outside the agricultural enterprise zone, but the service performed outside the agricultural enterprise zone is incidental to the individual's service inside the agricultural enterprise zone; or

(3) some of the service is performed inside the agricultural enterprise zone and:

(A) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is inside the agricultural enterprise zone; or

(B) there is no base of operations or place from which the service is directed or controlled, but the individual is a resident of the agricultural enterprise zone.

(f) The sales factor is a fraction. The numerator of the fraction is the total sales of the taxpayer inside an agricultural enterprise zone during the taxable year. The denominator of the fraction is the total sales of the taxpayer everywhere during the taxable year. Sales of tangible personal property are in an agricultural enterprise zone if:

(1) the property is delivered or shipped to a purchaser, other than the United States government, inside the agricultural enterprise zone, regardless of the f.o.b. point or other conditions of the sale; or

(2) the property is shipped from an office, a store, a

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warehouse, a factory, or another place of storage inside the agricultural enterprise zone and either the purchaser is the United States government or the taxpayer is not taxable in the state of the purchaser.

(g) Sales, other than sales of tangible personal property, are inside an agricultural enterprise zone if:

(1) the income producing activity is performed inside the agricultural enterprise zone; or

(2) the income producing activity is performed both inside and outside the agricultural enterprise zone, and a greater proportion of the income producing activity is performed inside the agricultural enterprise zone than outside the agricultural enterprise zone, based on costs of performance.

(h) Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, are allocated as provided in subsections (i) through (l).

(i) Net rents and royalties from:

(1) real property located inside an agricultural enterprise zone are allocable to the agricultural enterprise zone; and

(2) tangible personal property are allocated to an agricultural enterprise zone to the extent that the property is used inside the agricultural enterprise zone.

The extent of use of tangible personal property inside an agricultural enterprise zone is determined by multiplying the rents and royalties by a fraction. The numerator of the fraction is the number of days of physical location of the property inside the agricultural enterprise zone during the rental or royalty period in the taxable year. The denominator of the fraction is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or is not ascertainable by the taxpayer, tangible personal property is used where the royalty payor obtained possession of the property.

(j) Capital gains and losses from sales of:

(1) real property located inside an agricultural enterprise zone are allocable to the agricultural enterprise zone;

(2) tangible personal property are allocable to an agricultural enterprise zone if the property had a situs inside the agricultural enterprise zone at the time of the sale; and

(3) intangible personal property are allocable to an

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1 agricultural enterprise zone if the taxpayer's commercial
2 domicile is inside the agricultural enterprise zone.

3 (k) Interest and dividends are allocable to an agricultural
4 enterprise zone if the taxpayer's commercial domicile is inside the
5 agricultural enterprise zone.

6 (l) Patent and copyright royalties are allocable to an
7 agricultural enterprise zone to the extent that the patent or
8 copyright is used by the taxpayer inside the agricultural enterprise
9 zone. A patent is used inside an agricultural enterprise zone to the
10 extent that it is used in production, fabrication, manufacturing, or
11 other processing inside the agricultural enterprise zone or to the
12 extent that a patented product is produced inside the agricultural
13 enterprise zone. If the basis of receipts from patent royalties does
14 not permit allocation to agricultural enterprise zones, or if the
15 accounting procedures do not reflect location of use, the patent is
16 used at the location of the taxpayer's commercial domicile. A
17 copyright is used inside an agricultural enterprise zone to the
18 extent that printing or other publication originates inside the
19 agricultural enterprise zone. If the basis of receipts from copyright
20 royalties does not permit allocation to agricultural enterprise
21 zones, or if the accounting procedures do not reflect location of use,
22 the copyright is used at the location of the taxpayer's commercial
23 domicile.

24 (m) If the allocation and apportionment provisions of this
25 section do not fairly represent the taxpayer's income derived from
26 sources inside an agricultural enterprise zone, the taxpayer may
27 petition for, or the department may require, with respect to all or
28 any part of the taxpayer's business activity:

- 29 (1) a separate accounting;
- 30 (2) the exclusion of any one (1) or more of the factors listed in
31 this section;
- 32 (3) the inclusion of one (1) or more additional factors that will
33 fairly represent the taxpayer's income derived from sources
34 inside the agricultural enterprise zone; or
- 35 (4) the employment of any other method to effectuate an
36 equitable allocation and apportionment of the taxpayer's
37 income.

38 (n) In the case of at least two (2) organizations, trades, or
39 businesses owned or controlled directly or indirectly by the same
40 interests, the department shall distribute, apportion, or allocate the
41 income derived from sources inside an agricultural enterprise zone
42 among those organizations, trades, or businesses in order to fairly

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reflect and report the income derived from sources inside the agricultural enterprise zone by various taxpayers.

(o) A taxpayer that:

(1) does not own, rent, or lease real property outside an agricultural enterprise zone that is an integral part of its trade or business; and

(2) is not owned or controlled directly or indirectly by a taxpayer that owns, rents, or leases real property outside an agricultural enterprise zone;

is exempt from the allocation and apportionment provisions of this section.

SECTION 14. IC 6-3-2-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 22. (a) During the last three (3) years that the taxpayer is eligible for an exemption under section 20 of this chapter, the exemption shall be reduced by the following percentages:**

(1) Twenty-five percent (25%) for the year that is two (2) years before the final year of designation as an agricultural enterprise zone.

(2) Fifty percent (50%) for the year that immediately precedes the final year of designation as an agricultural enterprise zone.

(3) Seventy-five percent (75%) for the final year of designation as an agricultural enterprise zone.

(b) A taxpayer is not eligible for the exemption described in section 20 of this chapter if the taxpayer is delinquent in the payment of a listed tax under IC 6-8.1.

(c) A taxpayer is eligible for an exemption under section 20 of this chapter until the department of state revenue, with the assistance of the department of local government finance, determines that the total state and local tax revenue foregone as a result of all exemptions and deductions granted to the taxpayer under the agricultural enterprise zone program reaches ten million dollars (\$10,000,000).

(d) A taxpayer that receives an income tax exemption under section 20 of this chapter may not receive a tax incentive or benefit provided to an enterprise zone business under the following statutes:

(1) IC 6-1.1-20.8.

(2) IC 6-3-3-10.

(3) IC 6-3.1-7.

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- 1 **(4) IC 6-3.1-9.**
2 **(5) IC 6-3.1-10.**
3 **(e) The department of state revenue shall deny an exemption**
4 **under section 20 of this chapter to a taxpayer that fails to comply**
5 **with the reporting requirements of IC 4-4-6.1-9.**
6 SECTION 15. [EFFECTIVE JULY 1, 2004] **(a) IC 6-1.1-10-44 and**
7 **IC 6-1.1-11-4.5, both as added by this act, apply to property taxes**
8 **first due and payable after December 31, 2006.**
9 **(b) IC 6-3-2-20, IC 6-3-2-21, and IC 6-3-2-22, all as added by**
10 **this act, apply to taxable years beginning after December 31, 2005.**

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